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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,493	12/10/2001	Larus Jon Gudmundsson	3535-0114P	7153
2292	7590	02/24/2004	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			BREVARD, MAERENA W	
		ART UNIT	PAPER NUMBER	
		3727	9	
DATE MAILED: 02/24/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	GUDMUNDSSON, LARUS JON	
09/936,493		
Examiner	Art Unit	
Maerena W. Brevard	3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 07 July 2003.  
2a) This action is **FINAL**.                            2b) This action is non-final.  
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 7-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) Claim(s) \_\_\_\_\_ is/are allowed.  
6) Claim(s) 7-22 is/are rejected.  
7) Claim(s) \_\_\_\_\_ is/are objected to.  
8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.  
10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Iceland on March 11, 1999. It is noted, however, that applicant has not filed a certified copy of the Iceland application as required by 35 U.S.C. 119(b).

### ***Claim Objections***

2. Claims 13 and 21 are objected to because of the following informalities: in line 2 of each claim "hand" should be changed to --hang--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 7, 11, 13-15, 19, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Reilly.

Reilly discloses a device for carrying a child upon the shoulders of an adult comprising:

- A seat section (26) partly encircling the neck of an adult (Figure 1);
- A leg section (16, 18), to the same degree claimed, reaching down over the chest;
- The seat section being a cushion saddle, to the degree that the seat section is made of material fabric that is considered cushioned;
- The leg section has stirrups (30, 32) for the child's feet and at least partly carrying the weight of the child;
- The leg section length is adjustable (110, 112);

- The stirrups hang downwardly from a bottom of the leg section (Figures 2 and 3); and
- The spine of the child is caused to be in vertical alignment by the stirrups, to the same degree claimed.

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 7-10, 12, 13, 15-18, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Verina in view of Bush.

Verina discloses a device for carrying a child upon the shoulder of an adult (11) comprising a seat section (14) partly encircling the neck of an adult (Figure 3), a leg section (15) reaching down over the chest, and the seat section being a cushion saddle (inflatable), but does not teach the leg section having stirrups. However, Bush teaches the leg section of the child carrier having stirrups (21) for the child's feet. It would have been obvious to attach the stirrups of Bush on the child carrier of Verina. Doing so would assist the child in balancing on the adult's shoulders.

Regarding claims 8 and 16, the upper surface of the seat section is forwardly inclined with respect to the horizontal plane (figure 4).

Regarding claims 9 and 17, the thickness of the seat section is decreasing (at 23) in the direction toward the leg section.

Regarding claims 10 and 18, the inclination of the seat section is about 4-10 degrees with respect to the horizontal plane, to the same degree claimed.

Art Unit: 3727

• Regarding claims 12 and 20, the inner part of the seat section of Verina is semi-circular and at least partly encircles the neck of the adult (Figures 1 and 3).

Regarding claims 13 and 21, although it appears the applicant intends to claim the stirrups extending from the terminal end of the leg section, the stirrups inherently hang downwardly from the bottom of the leg section due to gravity.

***Response to Arguments***

7. Applicant's arguments filed July 7, 2003 have been fully considered but they are not persuasive. Until certified copies of the priority documents are received the rejections cited above still stand.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3727

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maerena W. Brevard whose telephone number is 703/305-0037. The examiner can normally be reached on M-Th; 8:00 AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703/308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*MWB*  
Maerena Brevard  
February 20, 2003

  
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